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# Standing Committee on Industry and Technology

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Chair: Mr. Joël Lightbound





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• (1105)

[Translation]

**The Chair (Mr. Joël Lightbound (Louis-Hébert, Lib.)):** I call this meeting to order.

Welcome to meeting No. 43 of the House of Commons Standing Committee on Industry and Technology. Pursuant to the order of reference of Wednesday, October 5, 2022, we are studying Bill C-244, An Act to amend the Copyright Act (diagnosis, maintenance and repair).

Today's meeting is taking place in a hybrid format, pursuant to the House Order of Thursday, June 23, 2022.

I apologize for chairing the meeting remotely today. I would have preferred to be with you in Ottawa, but that was unfortunately not possible.

I will introduce the witnesses appearing before the committee in the first hour of the meeting.

[English]

We have, from the Canadian Vehicle Manufacturers' Association, Brian Kingston, president and chief executive officer, and Jennifer Steeves, director, industry and consumer affairs; from LKQ Corporation, Tyler Blake Threadgill, vice-president, government affairs, and Derek Willshire, regional vice-president, Canada; and finally, from the North American Equipment Dealers Association, John Schmeiser, president, and Eric Wareham, vice-president, government affairs.

Thanks to all of you for joining us today. It is much appreciated.

Without further ado, I will cede the floor to the Canadian Vehicle Manufacturers' Association for five minutes.

**Mr. Brian Kingston (President and Chief Executive Officer, Canadian Vehicle Manufacturers' Association):** Mr. Chair, honourable members, thanks for the invitation to appear here today as part of the committee's study of Bill C-244, an act to amend the Copyright Act.

The Canadian Vehicle Manufacturers' Association, CVMA, is the industry association representing Canada's leading manufacturers of light and heavy-duty motor vehicles. Membership includes Ford, General Motors and Stellantis FCA Canada. Canada's auto industry is responsible for over \$13 billion in annual economic activity, 117,000 direct jobs and an additional 371,000 jobs in aftermarket services and dealership networks in 2020. The industry is Canada's

second-largest export sector, with over \$36.5 billion in exports last year.

The CVMA has been a strong supporter of the Canadian Automotive Service Information Standard, CASIS, since its inception 12 years ago. CVMA members are industry leaders, providing vehicle repair information and tools to the aftermarket at a level equivalent to their respective independent authorized dealers to ensure that Canadian vehicles are repaired to OEM specification to the benefit and protection of the consumer. Over the past few months, our members have reviewed and submitted recommended updates to the CASIS website to ensure technicians have up-to-date links to our members' respective technical information portals. Regular CASIS task force meetings provide an opportunity to bring forward details about any issue that is being encountered by the aftermarket for further study and collaboration on solutions.

Safety is automakers' number one priority, and OEMs are responsible to ensure vehicle safety systems comply with the Motor Vehicle Safety Act, the MVSA. Vehicle safety technologies provide societal benefit and may save lives, including that of the driver, other passengers and those in the surrounding environment, including other motorists and pedestrians.

Vehicle emissions systems must also comply with federal regulations under the Canadian Environmental Protection Act, CEPA. Modification to a vehicle's emissions system may put a sensor out of alignment, resulting in compliance issues due to increased emissions, and it may also affect fuel consumption. Allowing unrestricted access to vehicle safety and emissions systems software that is not required to complete a repair introduces significant compliance and safety risks in the event of modification resulting in a system not operating as originally designed. CASIS ensures that repairs are done safely and in compliance with the MVSA and CEPA, among other regulatory frameworks that apply to OEMs.

Cybersecurity is another top priority for industry, and data protection and data privacy are embedded from the earliest stages of product development. OEMs invest and include security measures beginning at the design process and throughout the automotive ecosystem, and abide by rules that govern cybersecurity management.

Circumvention of a vehicle technology protection measure, or a TPM, and the modification of vehicle system firmware may undermine cybersecurity protections, making vehicles more vulnerable to hacking. Automated vehicle and connected vehicle technologies, driver-assist systems and the transition to an electric fleet with charging infrastructure require an increasingly vigilant approach to cybersecurity.

The 2020 Transport Canada report “Canada’s Vehicle Cyber Security Guidance” notes that “A cyber security breach—either deliberate or accidental—could have adverse consequences, such as compromising vehicle safety, unauthorized access of confidential information, and vehicle theft, among others.”

Context is critical here. The consequences of allowing unrestricted modification of motor vehicle firmware and certain software are more serious than compared to other consumer goods, which we understand is the intended focus of this bill.

As the committee continues its study of Bill C-244, we strongly recommend the committee hear from a cybersecurity expert to receive a briefing about cybersecurity threats as related to vehicle security safeguards including measures to protect the integrity of vehicle systems. We also recommend inviting an appropriate Transport Canada official who can provide input to the committee from a road safety and motor vehicle regulation perspective as well as an Environment and Climate Change Canada official who could speak to the importance of vehicle system integrity related to fuel consumption and emissions compliance.

In closing, the CVMA remains committed to the CASIS model, which has been working for over a decade and may serve as a model for other industries to adopt. We urge the committee to continue its detailed review, hear from the vehicle cybersecurity and safety experts, and continue to engage with CVMA as this study moves forward.

• (1110)

With that, I’ll be pleased to take your questions, and thank you again for the invitation.

**The Vice-Chair (Mr. Rick Perkins (South Shore—St. Margarets, CPC)):** Thank you. I’m in temporarily, since our chair’s computer has apparently frozen.

I will go to the next witness, the LKQ Corporation.

[*Translation*]

**Mr. Derek Willshire (Regional Vice-President, Canada, LKQ Corporation):** Mr. Chair, honourable members, my name is Derek Willshire, and I’m the regional vice-president for Canada at LKQ. I’m here today with my colleague, Tyler Threadgill, vice-president and head of Federal Government Affairs.

Thank you for giving LKQ the opportunity to comment on Bill C-244, an important bill that seeks to improve the right to repair. Comprehensive regulation of the right to repair is urgently needed. Small businesses and consumers, particularly those in rural areas, will suffer significant negative impacts if action is not taken. For more information, we invite you to read the brief that we submitted on Bill C-244.

LKQ distributes quality automotive replacement parts, whether OEM parts or aftermarket parts, for consumer vehicle repair, as well as a comprehensive diagnostic and calibration services throughout Canada and the United States.

LKQ is also the largest automotive recycler, recycling more than 900,000 end-of-life vehicles per year in North America.

LKQ employs 1,175 people at 37 locations across Canada. I work in office in Lévis, a suburb of Quebec City, alongside 92 men and women I’m very proud to consider my family. Our employees in Canada represent only a small portion of the 491,000 employees in the automotive aftermarket in Canada.

For many Canadians, a car is one of their most important purchases after buying a home. While innovation and technology have allowed for greater mobility, automobiles can be difficult to maintain. What we’ve seen and heard from the majority of our customers is that consumers have less and less choice in where they can have their vehicles serviced. According to the Auto Care Association, 70% of car repairs are done in the independent aftermarket. We are here today to advocate for the advancement of Bill C-244 to ensure that Canadians continue to have that choice.

The Canadian Automotive Service Information Standard, or CASIS, a voluntary agreement reached in 2009, is outdated, as vehicle repair professionals now use technology that did not exist in 2009.

Consumers deserve a vibrant aftermarket that allows them to choose how and, above all, where their vehicle is serviced. That’s a real need for them. Bill C-244 does just that.

My colleague Mr. Threadgill will address some of the current obstacles.

[*English*]

**Mr. Tyler Blake Threadgill (Vice-President, Government Affairs, LKQ Corporation):** Thank you, Derek.

Mr. Chair, honourable committee members, my name is Tyler Threadgill. I’m the vice-president of government affairs for LKQ Corporation, working across Canada and in the United States. Thank you for having us here today to share our thoughts on this important piece of legislation.

Bill C-244 is integral to protecting not only Canadian consumers but Canadian small business owners. Our goal is to develop a framework that allows repair and maintenance data to be shared with the automotive aftermarket and a vehicle owner's repair shop of choice. Specifically, we believe the inclusion of a right-to-repair regime for the automotive diagnostic, repair and service sector is imperative to keeping up with the ever-changing automotive industry.

As Derek alluded to, in 2009, the CASIS agreement was reached, which would allow the automotive aftermarket to access important repair and maintenance information. Similarly, a memorandum of understanding was reached by the same parties in the United States about five years later. However, there were unforeseen flaws in this agreement. They did not account for various technological advances. For instance, when these agreements were signed, in order to access vehicle data, a computer needed to be plugged into a car. Now vehicle data is sent through a telematic system that transmits data wirelessly to a server managed by the manufacturer, a process that was not around when these agreements were signed.

To remain up to speed in this technologically evolving landscape and safeguard access to vehicle data by the independent aftermarket, Bill C-244 should take into account the following concepts:

Vehicles compile extraordinary amounts of data, such as where you go and how fast you drive. It's a lot of personal information. I want to be very clear: We do not want that information. What we're looking for is the aftermarket having access to vehicle repair and maintenance data that is necessary to repair a car.

Cybersecurity is another key component to consider. This data needs to be sent in a safe, readable format for all technicians to access.

I'd like to reiterate the industry's goal: We are asking for legislation that maintains the historical status quo in the repair and maintenance market.

This is a time of tremendous technological advancement. It is critical that legislation keep pace to ensure that Canadians' choices and rights remain protected.

Thank you again for your time. We welcome any questions and look forward to working with you on this important issue.

- (1115)

**The Chair:** Thank you very much.

We'll now turn to the North American Equipment Dealers Association for five minutes.

**Mr. John Schmeiser (President, North American Equipment Dealers Association):** Thank you, Mr. Chair.

Thank you to the INDU committee members for the invitation to appear before you today to discuss Bill C-244.

The North American Equipment Dealers Association Canada has represented farm equipment dealers in the country since 1927. In addition to the over 850 farm equipment dealers across Canada that we represent, we also have many construction, material handling, forestry and outdoor power equipment dealers as members. We're

also here today on behalf of our sister organization in Quebec, AM-MAQ, which has represented dealers in that province since 1949.

Our farm equipment dealers directly employ over 20,000 people across the country. For the most part, our members are located in rural areas and, in a lot of cases, our equipment dealers are the largest employers in these rural communities.

We want to be very clear that farm equipment dealers in Canada support the customers' right to repair their own equipment, and no one has taken away a farmer's right to repair their own equipment. This is a relationship-based business, and our dealers' success is dependent on our customers' success. This is also a very highly competitive business; if the dealer doesn't take care of the customer, they will take their business elsewhere.

To show how we support a customer's repair, I'd like to share the industry commitment that OEMs and dealers have made to the customer. OEMs offer our farmer customers access to error or fault codes, plus the same repair manuals, diagnostic equipment, special tools, training and parts that are available to dealers. Should a farmer or a third party repair shop wish to purchase them, they are available from all the major manufacturers who have signed on to this industry commitment and, with this industry commitment, 98% of the repairs can be performed by farmers or third party repair shops. The remaining 2% of repairs involve access to safety or emissions criteria or may need a software reset.

Another part of our industry commitment is our "repair done right" initiative, through which we train dealership employees on what is available in the marketplace. This is to ensure that our staff and our customers know what's available to support their repair.

Dealerships invest millions in parts inventory and technician training to support customer repair. Additionally, our association has spent over \$3.5 million in the last few years on capital projects for technician training at some of Canada's finest post-secondary institutions, and we have awarded over 1,200 scholarships to dealership technicians to upgrade their training. We do this because it's not only good business; it's also critical that when a machine is down, our dealership staff know what the problem is and can fix it right the first time.

An independent survey showed that 56% of the parts we sell are installed by someone other than the dealership, so we clearly do not have a monopoly on repair. That same survey shows that independent repair shops, in many cases, are the top parts customers of our dealers. What we don't support, though, is modification, and Bill C-244 would open the door to modification that has negative consequences to the environment and safety concerns.

Our dealers report many instances of customers altering the emission systems on their off-road equipment in an effort for better fuel economy and performance. However, this violates the Canadian Environmental Protection Act, and there's a lack of enforcement in this area. If Bill C-244 passes in its current form, this will open the door to widespread altering of emission systems, as there will be open access to the software.

Additionally, access to the software will create many safety hazards. As an example, a tractor's brakes are designed for the maximum speed of 40 kilometres per hour; however, with access to the software, that speed can be increased to as high as 70 kilometres per hour. That speed makes the tractor unsafe and creates a hazard to the public. Allowing access to farm equipment software also creates a cybersecurity concern.

Most modern farm equipment has remote access and diagnostic capabilities. Already we have hackers who are boasting about their attempts to remotely shut down tractors. Opening up access to the software will put Canada's food supply chain at risk.

Earlier this year, John Deere was able to remotely disable tractors that were stolen in the Ukraine by Russian troops. If proprietary code is allowed to be accessed, this could put control of the units in the hands of others with possible disastrous consequences and national security risks.

For these reasons, we oppose Bill C-244 in its current form. It doesn't take into consideration the industry commitment that supports customer repair and has unintended safety, environmental and cybersecurity consequences for the Canadian agricultural industry.

We welcome MP Miao's comments that he was willing to entertain amendments to the bill with respect to our industry, and we have submitted draft language that would exempt our construction in agricultural industries.

Our industry has stepped up to support a customer's right to repair their own equipment. I hope you agree that an industry solution is preferable to a legislated solution.

• (1120)

Thank you, and we look forward to your questions.

**The Chair:** Thank you very much, Mr. Schmeiser.

We'll now turn to Mr. Perkins to start the discussion. You have six minutes.

**Mr. Rick Perkins:** Thank you, Mr. Chair. Thank you, witnesses, for appearing.

Mr. Schmeiser, I'd like to explore a couple of the points you raised.

Maybe you could explain the last one, modification, a little more. It would surprise me that somebody would pay a million dollars for a piece of farm equipment and then try to fix it themselves and modify it.

What are some of the modifications that you see? What is the impact of that on the equipment?

**Mr. John Schmeiser:** Thank you for your question.

There are two.

The first one is the installation of a DEF delete kit on, typically, off-road diesel engines. That gets around the emissions standards that have been set in the Canadian Environmental Protection Act. That is illegal. However, we have reports from some of our dealers that in their trade area, as much as 50% of the farm equipment has a DEF delete kit installed on it. The problem is there is no enforcement.

The second issue is chipping and tuning. That is the installation of a chip to increase the horsepower of a tractor or combine. It's not illegal, and a customer can do whatever they want with their farm equipment after they purchase it. However, it voids the warranty with the manufacturers. The manufacturers make it very clear that any alteration from the OEM standard is a violation of the warranty.

There is a risk that comes with both of those things. On the one hand, it's illegal or it voids your warranty, and then there's a downstream effect. Ninety-five per cent of the equipment that our dealers sell involves a trade. If a dealer takes in a piece of equipment that has been altered or chipped and then sells it to another customer, who's liable if a transmission or an engine blows up because it's been chipped?

Those are the two primary issues. They're the installation of DEF delete kits and chipping and tuning.

**Mr. Rick Perkins:** If you're altering the horsepower, you're also impacting, presumably, the transmission and its ability.

**Mr. John Schmeiser:** Absolutely.

**Mr. Rick Perkins:** There have been discussions about whether or not this bill breaches provisions of CUSMA. I'm wondering if each of the three groups, starting with Mr. Kingston, wants to briefly comment on that aspect.

**Mr. Brian Kingston:** I can't give a definitive answer. I would recommend that Global Affairs Canada trade officials be engaged on that question. There are commitments and requirements through CUSMA with respect to things like intellectual property. I think that needs to be investigated further.

**Mr. Tyler Blake Threadgill:** I think we would agree. We can't say for certain one way or another whether it would, but we'd be happy to work with you and other members to get a definitive answer.

**Mr. Eric Wareham (Vice-President, Government Affairs, North American Equipment Dealers Association):** I agree with Mr. Kingston's comments.

I would add, though, that this process.... When we're looking at the classes of work represented here by auto manufacturers and farm equipment, we're going to hear—and you'll hear about many other products—that this is an all-encompassing piece of legislation. It doesn't distinguish between an airplane, farm equipment or a cellphone, and those have very different characteristics.

I will say that in other markets, generally speaking, there's a deliberative process that makes a distinction among classes of work so that individuals can petition for exemptions from copyright protections for the purpose of repair and maintenance. It's not as blunt an instrument as this legislation would be. It's more a scalpel to dissect among classes of work in a more deliberative way, with safeguards in place for some of the concerns that have been raised here.

**Mr. Rick Perkins:** Obviously with commercial vehicles, there might be a bit of a different consideration.

I'm going to turn the rest of my time over to Mr. Vis.

**Mr. Brad Vis (Mission—Matsqui—Fraser Canyon, CPC):** Thank you, Mr. Wareham.

I want to continue on that point.

Looking at the current legislation, do you believe there's a way to get around that all-encompassing approach you just referenced through an amendment?

**Mr. Eric Wareham:** That's a great question.

In these other markets that I referenced, there's a process by which producers of different products or proponents of products seek an exemption from technological protection measures for the purpose of repair and maintenance. They would initiate the petition, and then have the evidentiary record explaining their rationale for why they need it.

• (1125)

**Mr. Brad Vis:** Right now, what's before us today in Bill C-244, as you mentioned, is all-encompassing legislation. What I'm hearing from equipment dealers in my riding is that there are some major consequences to what's at play here.

Have you submitted possible amendments in good faith to this committee?

**Mr. Eric Wareham:** Yes, we have.

**Mr. Brad Vis:** What were your general recommendations about a way to get around some of the challenges that we're hearing about right now?

**Mr. Eric Wareham:** Well, I think you have it in your evidentiary record that we submitted to you. We could talk more in detail, I think, about those amendments. Right now, it's a list of products—

**Mr. Brad Vis:** Okay.

**Mr. Eric Wareham:** —but I think that that may be somewhat—

**Mr. Brad Vis:** Thank you.

Mr. Kingston, quickly, can you differentiate between a modification and a repair and, if possible, define both?

**Mr. Brian Kingston:** Yes. We do see modifications similar to what was mentioned by my colleagues from the equipment dealers association with respect to things like chipping. Those are the types of modifications that you see occurring in vehicles, and they can cause—

**Mr. Brad Vis:** I'm sorry: What is a modification?

**Mr. Brian Kingston:** Modification would be circumventing a system that is in place to protect and keep the vehicle compliant with CEPA regulations—for performance reasons, for example. That does occur.

Repair is what we see through CASIS. Automakers and the aftermarket share information with respect to diagnostics and doing repairs on a vehicle and ensure that both the dealer and an aftermarket can do those repairs.

**Mr. Brad Vis:** Do you think that the current version of this legislation would encompass modifications as well as repairs?

**Mr. Brian Kingston:** It's not clear.

**Mr. Brad Vis:** Thank you.

**The Chair:** Thank you, Mr. Vis.

We'll now turn to Mr. Fillmore for six minutes.

**Mr. Andy Fillmore (Halifax, Lib.):** Thank you, Chair.

Thanks to all the witnesses for your time and for sharing your experience today.

It's clear that we have two perspectives from the panellists today. Our job is to understand those two perspectives and try to navigate down the middle there and try to make sure that everybody's position is covered.

I want to start by saying that the author of the legislation and the previous author of the previous legislation are both really clear that this is legislation that is founded on the right to repair, not the right to modify and not the right to harvest data. It's really about repair. It's about really respecting, in a technological context, the evolution of your industries, the parties to CASIS, in a way that I think they've been left behind by CASIS right now.

On the concern about modification, obviously we don't want to.... You painted some dire pictures there, Mr. Schmeiser, but where is that coming from? I have to say that it seems a little overstated, given what's actually in the bill. This is really about the right to repair. What is causing your concern that there might be these modifications from these honourable parties to CASIS?

**Mr. John Schmeiser:** Our concern is really based on what we're seeing already happening in the industry. If a dealer reports to me that over 50% of the equipment is already modified, this legislation really opens the door to open access to the software, so that we could look at 100% of the farm equipment out there violating the Canadian Environmental Protection Act. I don't think that's good for the economy or for the industry, and I don't think it's good for agriculture.

It's the same thing on chipping. We are seeing this, and we come here with a message that there's a lack of enforcement on the emission standards controls that are in place. If that isn't looked at and this legislation passes in its current form, I think we're going to have a worse problem on our hands than we have now.

**Mr. Andy Fillmore:** The committee has heard testimony on... I'll give you one example. It was the owner of a Volvo who could no longer take the Volvo to the neighbourhood repair guy and instead had to go, for many times the price, to the dealer. Do you think it's possible in the context of this increasingly tight hold by the manufacturers on the technology that one of the outcomes of it could be that people are actually seeking these modifications because of the heavy hand of the restrictions?

**Mr. John Schmeiser:** I can't speak for colleagues sitting at the table here, but I can speak for our industry, and our industry commitment is very clear: A third party repair shop or a farmer customer can get access to the same tools—diagnostic tools, special tools, training manuals, error codes, everything—that a farm equipment dealer can get right now.

They have to pay for it—fair enough—but we've stepped up as an industry to make this available to assist our customers in the repairs. Part of the reason we do this is that we have a workforce development challenge within our industry. We can't find enough mechanics. No matter what we've done and even with what I stated earlier in providing scholarships and training, we still need to fill that void, so it's in our best interests for the customers to be able to repair their own equipment. That's why we support them with this industry commitment.

• (1130)

**Mr. Andy Fillmore:** Okay. Thank you.

I'd like to go to LKQ.

Regarding CASIS, can you characterize from your perspective the current state of CASIS? Does it need to be updated, and what are the weak points?

**Mr. Derek Willshire:** Thank you for your question.

First of all, it's a voluntary agreement. It needs to be enforced.

Again, I think we stated clearly that a lot of the technology has evolved. We're good with that. That's great. However, anything that's transmitted right now on servers is not accessible through the OBD-II port. Sixty per cent of cars have this new technology. We believe that before 2030, 95% of those cars are not going to be...

It would need to be mandatory. It would need to be rewritten and tightened up a little, in my humble opinion.

**Mr. Tyler Blake Threadgill:** It would also need to have real enforcement mechanisms. Unfortunately, with it being voluntary, not

every manufacturer is a part of it, and there's no requirement that they be there. If they are not following it, there's no real enforcement for that.

Do we think there's a path forward for CASIS? There could be, but it would need to be, as my colleague mentioned, very much strengthened, made mandatory and given some actual teeth.

**Mr. Andy Fillmore:** If that were to happen, would your group be amenable to some of the amendments that the manufacturers are talking about to circumvent TPMs? Is there a middle ground here between CASIS and what the manufacturers want?

**Mr. Tyler Blake Threadgill:** As we stated, the importance for us is that repair and maintenance data are made available. We are not interested in all of the other data that's out there. We also are very concerned about safety. Nobody wants their car to be repaired and not done in a safe fashion.

I think we would share the concerns that were mentioned. What we want is true right to repair, a regime that allows consumer choice and option. The average car on the road now is over 12 years old. With most people, it's a third-owner or fourth-owner vehicle. There needs to be choice. People need to have the option of whether they go back to the manufacturer or go to their local mechanic.

**Mr. Andy Fillmore:** Is the historical status quo for your members to repair being eroded right now?

**Mr. Tyler Blake Threadgill:** Yes, it is.

**Mr. Andy Fillmore:** All right, thank you.

[Translation]

**The Chair:** Thank you very much, Mr. Fillmore.

Mr. Lemire now has the floor for six minutes.

**Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ):** Thank you, Mr. Chair.

I'd like to thank all the witnesses for being here.

I'm going to turn to Mr. Willshire and Mr. Threadgill from LKQ Corporation.

In the United States, the Federal Trade Commission produced a report for which it sought LKQ's advice. One of the concerns raised is VIN burning, a manufacturer's practice where a part can only work for one car because the vehicle's on-board software would prevent the part from being used for another vehicle. This practice is reportedly used by General Motors, among others, as well as a number of European luxury brands.

Is there a similar repair problem here in Canada?

**Mr. Derek Willshire:** Absolutely.

Thank you for your question, Mr. Lemire. I'd ask Mr. Threadgill to answer it.



[English]

**Mr. Tyler Blake Threadgill:** It's a very good question. VIN burning is taking place here as well, with what we're seeing.

LKQ, in addition to distributing new parts, aftermarket parts, OEM parts, is also the largest recycler of cars in the world. We recycle over 900,000 cars in North America alone.

Often what we will see is.... Take a side-view mirror, for instance. It may be perfectly good, in great standing, and it's a very good option to replace a side-view mirror, but it has a VIN number that might be burned when you put it on a new car. The mirror no longer is just a mirror, right? It has a motor. It may have a heater. It has sensors. It needs to be able to be properly put on and calibrated. Unfortunately, even though it is a part from the original manufacturer, in many cases it's not allowed to work properly.

[Translation]

**Mr. Sébastien Lemire:** So it's a widespread problem.

How do you respond to vehicle or equipment manufacturers who say that Bill C-244 could also create safety or compliance gaps?

• (1135)

**Mr. Derek Willshire:** It's important to reiterate that all that interests us is information about vehicle maintenance or repair. We have no interest in consumer driving habits.

I'm in favour of the suggestion to involve people working in cybersecurity. I'm absolutely convinced that, with good discussions, we can find a way to provide the information safely and without any risk to the consumer.

**Mr. Sébastien Lemire:** Recycling and recovery of electronic materials, known as urban mining, must be done correctly. In this sense, the automotive industry is an important player in the implementation of the circular economy.

How could Bill C-244 help your industry in this respect?

[English]

**Mr. Tyler Blake Threadgill:** We believe this legislation is a great first step towards a larger right-to-repair regime. That's why we are supportive of it. We do think more needs to be done, ultimately, to prevent VIN burning and to allow true sharing of that right-to-repair data.

[Translation]

**Mr. Sébastien Lemire:** What do you think could be done to increase the recovery and reuse of automotive and electronic parts?

Can Bill C-244 be helpful in this respect? What could we improve to do more?

**Mr. Derek Willshire:** Reusing parts from the 900,000 automobiles that we recycle and dismantle each year has two enormous and very beneficial consequences.

First, I've heard all my colleagues today talk about environmental concerns. We are giving a second life to parts that would otherwise have ended up in landfills.

Second, we're in an inflation situation. When there's an opportunity to make repairs safely and affordably, it helps the entire industry,

both consumers who have insurance policies and the insurance companies themselves.

**Mr. Sébastien Lemire:** What impact is the emergence of electric vehicles likely to have on your industry and your relationships with automobile manufacturers and dealers? Will it create more friction?

[English]

**Mr. Tyler Blake Threadgill:** There will certainly be some impact. These cars will still have to be repaired, so a lot of the same issues will continue moving forward, specifically with recycling. Recycling a battery is going to be very different from recycling an engine, for instance. That is something we are working on and will be able to do.

As a whole, an electric car is still a car. It's still going to need to be repaired. Those repairs may become more expensive. There are fewer parts in an electric motor, but they do tend to be more expensive. Being able to offer independent repair is going to be increasingly more important as we move into an electrified fleet.

[Translation]

**Mr. Sébastien Lemire:** As a member of Parliament for a rural area, I know that access to specialized repairers is often more difficult. As a result, in the aftermarket industry, and particularly in the case of vehicles, there are two factors to consider right now: price and labour shortages.

How is your industry helping to make services accessible and affordable for consumers?

**Mr. Derek Willshire:** Over the last two years, no one has escaped the supply chain disruption caused by the COVID-19 pandemic.

For our part, we've invested several millions of dollars to ensure that we have a good inventory of parts at competitive prices, always with safety as a priority.

As you said, you're from a rural area. Most Canadians don't live in cities like Toronto or Montreal either, and they don't always have access to repair services for certain vehicles. It's critical to think not only about the 491,000 employees of small- and medium-sized rural auto repair businesses, but also about all the Canadian consumers who will have to travel to the city for routine maintenance. You spoke earlier about VIN burning. In Canada, when tires are rotated, sometimes the tire pressure monitoring system needs to be recalibrated, for example after the left front tire is installed on the right rear wheel. This is starting to be more common than you might think. It's inconvenient for the consumer.

**Mr. Sébastien Lemire:** Thank you.

**The Chair:** Thank you very much, Mr. Lemire.

Mr. Williams, you have the floor for five minutes.

[English]

**Mr. Ryan Williams (Bay of Quinte, CPC):** Thank you very much.

I want to follow up on my colleague's question about VIN burning. How widespread is VIN burning in the auto industry right now?

• (1140)

**Mr. Tyler Blake Threadgill:** It's fairly widespread now, and it's something that we see growing. We think that if there is not a true right-to-repair regime put into place, it's just going to become a greater issue as these cars become more technologically advanced.

Parts need to be able to talk to each other. As I mentioned before, that side-view mirror used to be just a mirror. The average car on the road is 12 years old, so it may not impact those cars. For the cars that are newer, with a motor, a sensor or a heater, it's coming into play in those parts.

**Mr. Ryan Williams:** Is it possible that VIN burning will spread to other industries besides car manufacturing, like personal electronics, home appliances and heavy machinery?

**Mr. Tyler Blake Threadgill:** I can't speak to that personally, but I would assume so.

**Mr. Ryan Williams:** I wanted to get into warranties. We heard about the right to repair possibly opening up the voiding of warranties. I think it was only with the horsepower modification.

In what other instances could a warranty be voided based on right to repair?

**Mr. John Schmeiser:** If a DEF delete kit is installed on an off-road vehicle, then it would be void there, as well. It's pretty much any alteration to the manufacturer's OEM specifications or standards that voids the warranty.

**Mr. Ryan Williams:** What I'm hearing is that we have customer choice in giving options.

When we're looking at amendments on this on warranties, there are new cars, old cars, new equipment and old equipment. The right to repair seems to be good when something's out of warranty. When a vehicle or piece of equipment is a little older, then we need to get that repaired. However, a new vehicle seems to be where the warranty could be voided and where there are environmental implications.

Tell me a little bit more about what you see from this bill, particularly with regard to new equipment, older equipment and the ability for people to get something repaired whether it's new or old.

**Mr. John Schmeiser:** You know, there's a school of thought in our industry. If you're a customer and you bought a brand new combine—one manufacturer's combine runs at \$1 million right now—then you'd be a fool to alter that in any way to void the warranty.

We're not dealing with consumer electronics or an appliance. The manufacturers are great at honouring their warranties. The dealers typically put the products with warranties at the front of the list in terms of repair because it's a competitive business and they want to take care of their customers. We don't really see a lot of correlation

between warranty and the right to repair. We see them as two separate issues.

The right to repair, in terms of modification when it's used equipment, has become a bigger issue than customers' not getting warranties on their new pieces of equipment.

**Mr. Ryan Williams:** In terms of a customer who is looking to use the right to repair on an older piece of equipment, is there really an issue with that?

**Mr. John Schmeiser:** We don't think that there is, because of the industry commitment. Perhaps the biggest issue is the lack of education from our industry to the customers on what's available.

[Translation]

**Mr. Sébastien Lemire:** Mr. Chair, there's no more interpretation at the moment. Would it be possible to ensure that everything is working?

**The Chair:** Okay, thank you. I'll ask that the clerk ensure that the interpretation is working.

**Mr. Sébastien Lemire:** The interpreter is signalling to me that it's working again. I think that it should be fine.

Thank you.

**The Chair:** Perfect.

Mr. Schmeiser, you may continue.

[English]

**Mr. John Schmeiser:** In terms of a used piece of equipment, perhaps it is a bigger issue for the right to repair. However, that's where the industry has stepped up to that customer or that third party repair shop to make everything that a dealer can access available to assist in that repair.

**Mr. Ryan Williams:** Thanks.

To the gentlemen from LKQ, do you have any comments on that at all?

**Mr. Derek Willshire:** I'm not sure how comfortable I am in making the difference between old and new vehicles. Again, we're not advocating anything that would void the warranty through modification. We are just advocating access to information on any vehicles, new or recent, for the industry.

**Mr. Ryan Williams:** Thank you very much.

I think I have 30 seconds or a minute left. I'm going to cede my time to Bernard Généreux, Mr. Chair.

[Translation]

**Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC):** Thank you to my colleague.

I thank the witnesses for being here.

My question is for you, Mr. Willshire.

The auto repair industry is present across Canada and is largely made up of small businesses. Take, for example, all the neighbourhood garages. Would Bill C-244 spell the end to that reality? There's also talk of the labour shortage just about everywhere and the need for local and regional repairers. This applies to the agricultural sector as well as to the automotive sector, for example, and it is beneficial both in terms of the environment and price, among other things.

Will we see the end of that?

• (1145)

**Mr. Derek Willshire:** I'm going to give you a straight answer from the heart: What we're asking for would prevent the erosion of those businesses, protect the 491,000 employees in the automotive aftermarket industry, and at the same time not put jobs on the manufacturing side at risk at all.

If nothing is done and there's no governance of the CASIS agreement, which is outdated, the risk you're talking about would be even greater. We are seeing it more and more.

So, I'd say that there is in fact a risk in that respect.

**Mr. Bernard Généreux:** Do I have any time left, Mr. Chair?

**The Chair:** No, Mr. Généreux. Thank you for asking.

I now give Mr. Longfield the floor for five minutes.

[*English*]

**Mr. Lloyd Longfield (Guelph, Lib.):** Thank you, Mr. Chair.

It's a very interesting discussion today. I was part of the previous discussion when this issue was before the industry committee.

Mr. Willshire, where you just left off is something that hits quite close to home. I had a hydraulic repair shop in Winnipeg. We did repairs on tractors and combines during combining season when there was no time to wait for supply chains to catch up. We had to figure out ways to get tractors going again.

Could you speak about what this bill could do to support the improvements to supply chains, especially during critical periods?

**Mr. Derek Willshire:** Thank you for your question, sir.

Again, I think my colleague Tyler said it best. It's a huge step in the right direction. We are going to need more, but there has been a lot of talk today about training, about safety. These shops, whether they're mechanical or collision, have very dedicated and skilled employees. AIA has committed lots of resources to improve training and stay up to speed. At LKQ we're also committed to that. I-CAR has lots of courses out there.

I don't think it's about skills. I really want to bring this back to accessing that dire, important data in a readable fashion that would help these shops continue to repair vehicles of whatever nature they may be.

**Mr. Lloyd Longfield:** When you talk about the data, and I'm thinking about the J1939 standard, the heavy equipment standard for data, lots of people who are on farms or in rural communities are developing equipment using a standard that then can communicate with their tractors or their power units, doing things around precision agriculture or even processing of food using a pump that

otherwise would be found on a piece of equipment on the field. Having the right to repair would be stimulating innovation in rural communities. Is that something you've had experience with?

**Mr. Derek Willshire:** I can't comment on that. The agricultural industry is really not my forte.

Tyler, have you anything you want to add?

**Mr. Tyler Blake Threadgill:** No. I would say on the automotive side that data is the data needed to repair and maintain a car. It's something that historically has been available, plugging in through the OBD-II port, and it is now being shut down, as it's being transmitted wirelessly.

**Mr. Lloyd Longfield:** I worked with a company in Quebec City. Maybe I shouldn't get too specific, but they were developing computer modules that would then talk to that communication system in order to provide....

I'm trying to be as anonymous as I can on this, because of the company and the business they were doing. They were using that data to do things, to interact with other computers that would then signal for other things to happen. Again, there was innovation going on based on the network that was on the machine, but then other communication networks were developed to do innovative and complementary tasks. Not having access to that would then stifle innovation.

**Mr. Tyler Blake Threadgill:** We are certainly pro-innovation. Cars are becoming smarter every day, and we want that innovation to continue.

I would say, as cars are becoming smarter, a couple of things are important. We want the data to be safe. We want it to be transmitted safely, but I also think there are going to be more instances in which that data is necessary. Every car on the road now has sensors everywhere. You're no longer just putting a bumper back on. You have to calibrate those sensors to make sure they work properly, because everybody is now used to the beeps going off when they back out of their driveway. If those are off, you're going to see more accidents. We need to make sure that this data is transmitted safely.

• (1150)

**Mr. Lloyd Longfield:** Some comments were made around overriding environmental standards. Is there other legislation that's protecting us against people who are overriding those standards? I guess maybe that's a question for the other panellists as well.

**Mr. Tyler Blake Threadgill:** It has also been mentioned that it's currently illegal.

**Mr. Lloyd Longfield:** That's correct, so there are other laws in place for that.

This is maybe for the equipment manufacturers. Again, I worked in Calgary with one group and in Saskatoon with others. Do you see your equipment being modified in the field and improvements being made that are then picked up by manufacturers?

**Mr. John Schmeiser:** Typically the modification that we see is just for better performance, to increase the horsepower or get better fuel economy. Manufacturers, in the relationships they have with dealers, are very strict in their opposition to that.

**Mr. Lloyd Longfield:** Okay, I've had a different experience, so maybe I can leave it at that, because I'm not a panellist.

I think I'm over time. Thank you, Mr. Chair.

**The Chair:** You're just on time, Mr. Longfield. Thank you.

We'll now turn to Mr. Lemire.

[*Translation*]

You have the floor for two and a half minutes.

**Mr. Sébastien Lemire:** Thank you, Mr. Chair.

My next question is for Mr. Schmeiser.

I also represent an agricultural area. Many farmers have testified that they've had to wait hours, even days, for a technician to arrive from a dealership to diagnose a problem. These delays can be even longer if a farmer needs to transport equipment elsewhere or lives far from a certified dealership. These delays can cost our farmers thousands of dollars, especially at harvest time.

If farmers try to repair their equipment, they could face various consequences. So they need to wait. Even if they do all the right things and wait for an official dealership to do the diagnosis and repairs, they lose part of their livelihood. What recourse is there for these farmers?

[*English*]

**Mr. John Schmeiser:** Unfortunately, your example is very real, and that's something that we as equipment dealers want to fix. We do not benefit from our customers being down. We do not benefit from our customers having to wait hours or days on end, especially in seeding or harvest. We want to get the customer up and running as quickly as possible.

Part of the reason we're in the situation we're in I guess starts with workforce development. We can't find enough mechanics to service the equipment that's being sold in the marketplace. We do have remote diagnostic capabilities on pretty much anything that's been manufactured in the last five years, so at least there's light at the end of the tunnel here. We can diagnose equipment even before a failure takes place. That ultimately saves the customer a little bit of money. We don't want our technicians running out to the farmer to see something that they have to go back to the dealership to pick up the part for and go back. That costs the farmer money and that costs the dealer's reputation.

The only way we see a solution to that is to have more mechanics and better rural broadband.

[*Translation*]

**Mr. Sébastien Lemire:** I'm very sensitive to what you're describing, but I must say that farmers are very resourceful people.

However, accessing the technical manual for diagnosing and repairing a John Deere combine, for example, can cost up to \$1,000. That's obviously a significant barrier for many people. Why do these manuals cost so much?

Isn't there a solution to help farmers who need to make repairs? Personally, I think the bill is a step in that direction, but I'd like to hear your opinion on that.

[*English*]

**Mr. John Schmeiser:** Yes. We recognize the cost. We're very sympathetic to the cost, because for every dollar a customer has to spend on something, that's perhaps a dollar less they're going to spend on the purchase of new equipment. The reality is that the cost of these items is set by the manufacturer, and the retailer is the retail outlet.

We wish that there would be a higher adoption of the special tools and diagnostic equipment that are available to the customers. Our dealers tell us that there is very low adoption. We think our customers are very resourceful. If they have the proper tools that we provide in their hands, they can do a lot more repairs than they're doing right now.

[*Translation*]

**Mr. Sébastien Lemire:** Thank you very much.

**The Chair:** Thank you very much, Mr. Lemire.

We have a bit of time left with the first panel.

Mr. Généreux, I know you had some questions, so I'll give you the floor for about two and a half minutes.

**Mr. Bernard Généreux:** Thank you, Mr. Chair. That's very generous of you.

Mr. Schmeiser, you said earlier that parts represent about 70% of your association's business. Obviously, you're not necessarily the one installing them. In the village where I live, there are two large farmers who have garages as long as an arena. They have their own mechanics and buy parts to repair their equipment themselves.

How important is access to support services, both for you and for farmers? They want to be as self-sufficient as possible, so they can make repairs as quickly as possible. For your part, repairs are also among the services you offer. Aren't you at odds, in a way? How do you see that situation?

• (1155)

[English]

**Mr. John Schmeiser:** The reality is that we can't do all the repairs that are needed by the customers because of workforce development issues, because of the number of mechanics we have, so we maintain that it is in our best interest to make sure that third party repair shops have the parts and have access to the tools and diagnostic equipment they need.

In your situation of a large customer, absolutely a dealer will quickly realize that it's in his best interest to make that stuff available—the special tools, the diagnostic equipment and the parts—so that a large customer can do their own repairs.

[Translation]

**Mr. Bernard Généreux:** What about the warranty in that case?

The average price of a tractor today is about \$1 million.

What's included in the warranty? How long does it last? How much can a person repair on their tractor while maintaining that warranty?

[English]

**Mr. John Schmeiser:** In some of our provinces, we have legislation in place that guarantees the customer a one-year minimum warranty on the purchase of new farm equipment. That varies by province, but it's pretty much the standard in the industry.

The manufacturers go beyond. As an example, for that combine I referred to a little bit earlier, the manufacturer has a three-year warranty and three-year aftermarket service support with that, but in actual practicality, what happens is that if it's a piece of equipment that's under warranty, the dealer will address that first with their manpower. It's their customer who has just purchased new and who has made that major investment. Our warranty customers always get high priority.

[Translation]

**The Chair:** Thank you very much, Mr. Généreux and Mr. Schmeiser.

Mr. Dong, you have the floor for about two and a half minutes.

[English]

**Mr. Han Dong (Don Valley North, Lib.):** Thank you very much, Chair.

My question is for Mr. Kingston. What steps do your members currently take to ensure an adequate supply of automobile components and repair products that consumers can purchase to repair their vehicles?

**Mr. Brian Kingston:** CVMA members, through their participation in CASIS, provide the exact same information and tools to the aftermarket as they do to their dealership network. There's no difference whatsoever, and that is to ensure that consumers can get their repair done where they wish up to the OEM standard.

**Mr. Han Dong:** For the record, do your members support or oppose the third party manufacturing and sale of repair parts for vehicles that your members produce?

**Mr. Brian Kingston:** I'm sorry, oppose the third party...?

**Mr. Han Dong:** Do your members support or oppose third party manufacturing of parts that can be used for third party repairs?

**Mr. Brian Kingston:** We support repair as long as it's done up to the standard that the manufacturer has deemed through CASIS.

**Mr. Han Dong:** Do your members support or oppose the right to repair and modify?

**Mr. Brian Kingston:** Under this bill?

**Mr. Han Dong:** In general.

**Mr. Brian Kingston:** We support repair being done up to the OEM standard through CASIS, which is a very highly functional system that we have in place today.

**Mr. Han Dong:** If there is any possibility of an amendment—I'm sure there will be an opportunity for amendments—what would you suggest to this committee?

**Mr. Brian Kingston:** First and foremost, we don't think that this is necessary to apply to the automotive industry because we have the standard in place which has been successful and, I would argue, is an example for other industries to follow. This framework is unique, and it has been established. It's working very well right now, and it continues to be improved. We don't think that this type of legislation is necessary for the automotive industry.

**Mr. Han Dong:** Thank you, Chair.

**The Chair:** Thank you very much, MP Dong.

Thanks to all of our witnesses for taking the time today to inform the work of this committee. It's much appreciated.

I will now suspend the meeting for a few minutes.

• (1155)

(Pause)

• (1205)

**The Chair:** Good afternoon, everyone.

I will ask members in the room to take their seats. We're about to start the second hour of the meeting of the INDU committee.

With us for the second panel from the Canadian Automobile Association are Jason Kerr, senior director, government relations, and Ian Jack, vice-president of public affairs.

[Translation]

We also have two representatives from Medtech Canada, who are appearing by videoconference, Raj Malik, vice-president of Federal Affairs and National Strategic Partnerships, and Mia Spiegelman, vice-president of Regulatory Affairs.

Thank you all for joining us.

Without further ado, I'll give the floor to Mr. Kerr from the Canadian Automobile Association to get the discussion started.

**Mr. Ian Jack (Vice-President, Public Affairs, Canadian Automobile Association):** Actually, Mr. Chair, it will be me, Ian Jack, who will be speaking first.

[*English*]

Hello, everyone.

[*Translation*]

Mr. Chair, honourable members, thank you for the invitation to appear before you today to speak about this topic.

[*English*]

As noted, my name is Ian Jack, and I am VP of public affairs. With me is Jason Kerr, our managing director of government relations.

Most of you, of course, will be familiar with our brand, founded in 1913. The Canadian Automobile Association is a federation of eight clubs, providing more than 6.8 million Canadians coast to coast with emergency roadside assistance as well as automotive insurance, rewards and travel services.

Importantly, CAA is also a not-for-profit that has always advocated on issues of concern to its members. Today those issues include road safety, the environment, mobility, infrastructure and consumer protection, which is why we're here today.

Why do we care about digital locks at CAA? The answer is simple: We want Canadians to have access to reasonably priced vehicle repairs. To do that, we need competition in the marketplace. That competition will come from local garages that have been a staple of all of our communities since time immemorial. We need to ensure their future health.

Why do we think vehicles are worth taking note of in a discussion about a law of general applicability? It's because vehicles and vehicle repairs are the most expensive thing most consumers will buy to which digital locks might apply. It's not their iPhone, not their toaster oven; it's their vehicle.

We view this legislation as ensuring technological neutrality, making sure the underlying principles of the existing legislation are respected as technology advances. Time was, mechanics with the proper tools could fix your vehicle. You had options as to where to buy those tools. Now, however, software, including diagnostic software, is king across most industries, including automotive. This has given various industries the opportunity to slap an electronic padlock on their products, to the detriment of consumer choice and price competition on repair.

We don't think this is right, at least not for consumers of vehicle repair. If restrictions are in place that prevent access to a vehicle's software that supports maintaining and servicing that vehicle, Canadians are left with limited options if their vehicle breaks down or is in a collision. They have little choice but to go through their dealership.

That's fine if that's what you as a consumer want, but Canadians should have the right to bring their vehicles to a garage of their

choosing. As we've recently been reminded, prices do tend to go up over time. More competition will help with affordability. We'd also point out that not everyone lives a short drive from a dealership. Access to convenient and reasonably priced service should not be limited to those in big cities. In our view, it is important to ensure that those in the aftermarket who are attempting to diagnose, maintain and repair vehicles do not face obstacles such as technological protection measures that could restrict competition.

Indeed, in recent national opinion polling, CAA has found that a significant majority of Canadians agree that independent garages should have guaranteed access to manufacturers' software to diagnose and repair vehicles.

Bill C-244 is attempting to address a potential barrier to repairability, one that will help promote price discipline for consumers. For this reason, we support this bill.

We're further hopeful that passage of the bill would encourage automakers and the aftermarket to come together to outline the gaps in availability of repair data and its accessibility and to address them for today and for the vehicles of the future. That would be good for Canadian vehicle owners by ensuring future convenience, choice and price competition.

• (1210)

[*Translation*]

Thank you again for inviting us to appear before you today.

[*English*]

We look forward to your questions.

[*Translation*]

Thank you, Mr. Chair.

[*English*]

**The Chair:** Thank you very much, Mr. Jack.

We will now move to Medtech for five minutes.

**Mr. Raj Malik (Vice-President, Federal Affairs and National Strategic Partnerships, Medtech Canada):** Thank you, Mr. Chair and members of the INDU committee.

On behalf of Medtech Canada, we're grateful to have the opportunity to participate in the committee's review of Bill C-244. My name is Raj Malik. I am the vice-president of federal affairs for Medtech Canada. Joining me today is Mia Spiegelman, Medtech Canada's vice-president of regulatory affairs.

Medtech Canada is the national association representing Canada's innovative medical technology industry. We represent approximately 120 member companies that range from small emerging med-tech companies to large multinationals serving the Canadian market, collectively employing over 35,000 Canadians. Medical devices range from the smallest technologies, such as pacemakers, to the largest of diagnostic imaging technologies, such as MRIs, and everything in between.

With our time at the committee today, I would like to share some insights on the current regulations under which the med-tech industry operates and how this relates to our recommendations for Bill C-244 to ensure protections for patients and health care providers are upheld.

Our primary concern with the proposed amendments to the Copyright Act in Bill C-244 is that this would allow for the access to highly sensitive medical technology software by unregulated and untrained service providers. In addition, the amendments would allow for the creation of uncontrolled and unregulated service parts for medical devices, leading to potential patient or health care provider harm.

To be clear, our industry continues to support the availability of federally regulated third party entities to service and repair medical devices. We know this is critical to the functioning of the Canadian health care system.

Medical devices in Canada are heavily regulated by our federal government. Most medical devices undergo a rigorous licensing process that ensures the medical devices sold in Canada are safe for use, and this includes any related software and accessories. In addition, most facilities or organizations that handle medical devices throughout the supply chain are also regulated, such as hospitals, manufacturers, importers, distributors and regulated third party service providers that fall under their umbrella. Through this network, we ensure that throughout the life cycle of a medical device, which can range anywhere from seven to 15 years, the device remains as effective and safe as the day it was approved for sale into Canada.

At this time, third party service providers who provide only a service of repair are not covered under any government quality assurance regulations, which leaves very little protection for our patient and health care provider populations.

As an example of federal safeguards, the Protecting Canadians from Unsafe Drugs Act (Vanessa's Law) was passed in 2014. This legislation was brought forward by the Oakville MP at the time, Terence Young, following the death of his 15-year-old daughter Vanessa in 2000 when she used a prescribed therapeutic product as intended but suffered an adverse reaction.

Vanessa's Law was enacted to further tighten the post-market surveillance and oversight of therapeutic products. As of 2019, manufacturers, importers and other companies across the supply chain are now required to further analyze and/or gather reports on risks and issues identified after the medical device is sold into the Canadian market. Unregulated third party service providers, on the other hand, are not currently captured under these requirements.

Additionally, unregulated service providers today are not required by Health Canada to adhere to any standard procedures such

as proper training of personnel, evaluating parts suppliers, calibrating tools, maintaining records of device service and preventive maintenance or maintaining device design.

The current Copyright Act prevents unregulated third party servicers both from circumventing technical protection measures—TPMs—in our medical devices and from replacement of untested or unapproved repair parts. These protection measures ensure that only highly trained and authorized service providers can access this highly sensitive technology to perform the necessary repairs. These protections are in place to lower the risk of impacting device effectiveness and the risk of causing serious medical harm to patients.

When it comes to medical devices, TPMs are vital to the safety of patients and health care providers, as they are an integral part of what Health Canada reviews during the licensing process. TPMs ensure the device functions properly and alarms appropriately and that malicious actors cannot access patient data. If TPMs are bypassed and software modified improperly, serviced medical equipment can malfunction, causing risk to patients and technicians.

In conclusion, as medical devices are heavily regulated products requiring licences and adherence to robust safety standards, including aftermarket surveillance and reporting requirements, allowing access to unregulated third party servicers undermines existing safety measures that protect patients and our health care providers today. On behalf of Canada's medical technology industry, we strongly recommend that medical devices and technologies regulated for sale by Health Canada be provided a specific exemption in any proposed amendments to the Copyright Act.

• (1215)

Thank you. We will be pleased to take any questions.

**The Chair:** Thank you very much, Mr. Malik.

We'll now turn to MP Vis for six minutes.

[*Translation*]

**Mr. Bernard Généreux:** Actually, Mr. Chair, I will be speaking first.

**The Chair:** Okay, Mr. Généreux. You have the floor.

**Mr. Bernard Généreux:** Mr. Malik, can you quickly explain to me again the link between the bill and the death of the daughter of Terence Young, a former colleague with whom I sat in the house from 2009 to 2011? What specific link do you see between medical equipment and this bill?

[English]

**Mr. Raj Malik:** I will ask my colleague to comment on that.

**Ms. Mia Spiegelman (Vice-President, Regulatory Affairs, Medtech Canada):** Thank you, Mr. Malik.

When Vanessa's Law was enacted, it had different sections. One of them talks about the safety of the medical device throughout its life cycle. As Mr. Malik mentioned, it could be seven to 15 years.

In the medical device industry, they implemented it such that now manufacturers, importers, distributors and regulated third party service providers are required to provide annual summary reports around adverse events. If the adverse events cause unintended increased risk, they have to report it to Health Canada. Other such reports are now required in medical device regulations.

In regard to the act and how it's linked, third party service providers that are not regulated do not have this requirement. Therefore, there is a gap in this area, and this has been brought up to Health Canada as well.

Thank you.

• (1220)

[Translation]

**Mr. Bernard Généreux:** Have you proposed or do you plan to propose any amendments to the bill to ensure that third parties who repair medical equipment have the same responsibilities or options as manufacturers?

I understand what you want to do, your intention is very good, and the example you cite is particularly telling, but are you proposing any amendments?

[English]

**Ms. Mia Spiegelman:** Yes.

Go ahead, Mr. Malik.

**Mr. Raj Malik:** Yes, we will be putting forward an amendment with respect to that.

**Ms. Mia Spiegelman:** In addition, we have provided feedback to Health Canada around this area.

[Translation]

**Mr. Bernard Généreux:** Thank you very much.

I'd now like to turn to the representatives from CAA.

You have automobile clubs across Canada, including in Quebec. You have a total of nearly seven million members, so your association is very well known. Today, you are representing those seven million motorists, and you support this bill.

Has your association presented, or does it intend to present, any amendments to the bill or does it find it acceptable as it stands?

In other words, would you like to see the bill improved or enhanced?

[English]

**Mr. Ian Jack:** Have we presented any amendments? No.

Are we happy with the law as written? Yes.

Do we acknowledge that there could be some legitimate exemptions—like maybe from our colleagues here—that should be considered? Sure. I'm not an expert in medical technology, so I wouldn't try to speak for them.

I would say two things about any exemption process that the committee might consider through amendment. The first is that every industry will line up and claim that it is worthy of an exemption. Some will actually be worthy; some may be less worthy.

I think this committee probably hears from the brand name and generic pharmaceutical industries from time to time. You will know that they just spend all their time in court arguing over how long various periods should be. I would hope the committee would want to avoid that in any amendments it might consider on this bill. Think carefully about how to narrow the possibility of getting an exemption.

If I may, sir, there was a prior testimony that perhaps those who want to circumvent a digital lock should have to make their case. I would suggest the onus should be the other way around. If you are about to pass a law of general applicability that allows for the circumvention of digital locks for legitimate purposes, it should be the industry that says that we can't touch its software that should have to make its case.

Thank you.

[Translation]

**Mr. Bernard Généreux:** I understand what you're saying.

My fear, based on what witnesses have told us, is that it's the beginning of the end for our neighbourhood garages in our villages and municipalities, both in the agricultural world and the automotive world. This really scares me. It's going as far as having auto parts engraved so they can be used only once, so they cannot be replaced by any other part, not even a part from the very company that makes these parts. This means that manufacturers are really pushing the envelope to maintain control of the whole thing, if I can put it that way.

I fear that one day, if we don't change anything, we won't have access to all the local garages in each municipality. Is my fear justified?

[English]

**Mr. Ian Jack:** We share that concern, absolutely. That's why we support this legislation. We think it would be, in terms of our industry, a small step forward in making sure that we don't end up in that *huis clos* of having to go to a dealer that is maybe 200 or 400 kilometres away, depending on the vehicle you've purchased.

As well, I would say that CASIS—and we hear about CASIS—to me is a perfect example of another *piège* that I would encourage the committee to think about in any amendments that it considers.



What a wonderful story that the automotive industry and the aftermarket voluntarily got together and made an agreement to share information 15 years ago. Well, since then—and it's unfortunate that Mr. Masse is not here today, because he's been on this committee forever and could tell you—year after year, the same story is heard, which is that one side says CASIS is wonderful and working perfectly and the other side says it's irreparably broken.

What is the truth of the matter? We're a third party in this; we don't have line of sight either. However, that voluntary agreement has no review mechanism, no audit mechanism, and there's no third party that looks at it that anybody can go to review it. That's why we've ended up in that situation today.

We have heard talk of—and we could accept—voluntary agreements to potentially share information among industries in order to not be subject to Bill C-244. We think that's where some would like to go with this. We would urge some caution there. If that's where we end up, we think we need to make sure, whether it's ISED or some other body, that there is a regular review.

If a party to a voluntary agreement has an issue with it, what are they supposed to do about it? Again, that's why we don't like what we would consider reverse onus from a previous witness. There's an imbalance here of economic power between an OEM and most in the aftermarket.

Our friends at LKQ may have a bit of money, but they don't have as much money as the multinational auto companies, and anybody else in that industry is going to be even smaller. To us, asking somebody like that to have hundreds of thousands of dollars' worth of lawyers and spend years in court to argue about whether they should have access would be a mistake.

• (1225)

[Translation]

**The Chair:** Thank you very much, Mr. Jack.

Thank you very much, Mr. Généreux.

I now give the floor to Ms. Lapointe for six minutes.

**Ms. Viviane Lapointe (Sudbury, Lib.):** Thank you, Mr. Chair.

[English]

I would like to ask Mr. Jack a question.

You mentioned in your opening statement that your association did some polling of its members and that a significant number of Canadians indicated their concerns with limited options and lack of choice. Can you tell us more about what you heard from members?

**Mr. Ian Jack:** Absolutely. It was not just members, I might add. We have 6.8 million members, but when we do polling, we poll all Canadians. We ask them whether they are members so we know what the difference is, if there is one, but there isn't on this issue. Over two-thirds of Canadians support the right of the independent repair industry, through garages, to have access to that software.

Again, you'll hear differing stories about how easy that access is and how complete that access is today. In our view, the bill before you is ensuring that we don't have another impediment, and it's

about ensuring that in the future, digital locks don't become an impediment.

To the point made by Monsieur Généreux, the industry is getting tighter and tighter and tougher and tougher and more technologically driven. The importance to the OEMs of the repair model, and therefore that software, is only going to grow with time.

We already see that when new manufacturers come along, like Tesla, they don't use dealerships. They're company owned. That's been a long-term trend in the industry. I think it would be fair to say that if the OEMs were creating the industry from scratch today, they wouldn't set up independent dealer networks that they end up getting, you know.....

One of the things they love about wireless transmission of data is that it allows them, for the first time ever, to establish a direct binary relationship with the owner of a vehicle. If you think about it, I would suggest that if it's a new vehicle, most of us have a relationship with a dealership, and if not, then with a garage, but not with the OEM itself.

That's partly what this is about, this brave new world for the manufacturers. We think their pressure to hold that data will only increase. We want to make sure that it's more widely available, as we said, to the benefit of consumers, in particular on price when it comes to repair.

**Ms. Viviane Lapointe:** This isn't a uniquely Canadian issue. Are there any international examples we could refer to regarding the impact of this bill? I'm thinking in particular of countries like the U.S. or Australia.

**Mr. Ian Jack:** Yes, and my colleague Jason can speak more to this. He is, for his sins, on a quarterly call at 6 a.m. so we can all be awake at the same time—the Australians, the Europeans, us and so on. We talk regularly about this issue and we do monitor the international situation.

From our perspective at least, I think it's fair to say that internationally, the auto industry tends to line up to slow down any access to data. This has been the example in Massachusetts, where a citizens' referendum was passed and so on.

Let me turn it over to Jason for a little bit more on that.

• (1230)

**Mr. Jason Kerr (Managing Director, Government Relations, Canadian Automobile Association):** Yes, thank you.

In Australia, there has been an agreement. The agreement is not really working very well and has been delayed for many, many years. There are no manufacturers that make vehicles that are based in Australia, and that has been quite an impediment, because they don't pay quite a lot of attention to the rules. Things have been quite delayed there.

The EU is still working on their law. They're still working through things on right to repair. They do not have a right-to-repair bill per se at this moment. I can't say that there's anything that they've done on digital locks that I can think of, but I can check on that and get back to you, Ms. Lapointe.

Also, in the United States, as my colleague Mr. Jack mentioned, there is a bill that's been passed in Massachusetts to allow for right to repair. There is a movement to try to pass a federal or a national right-to-repair piece of legislation so that there's not a patchwork of legislation across the states. However, it is being held up at great length by the manufacturers, and in fact the manufacturers spent close to \$25 million on an advertising campaign to push back on right to repair in advance of the referendum that happened a couple of years ago now.

I think what we can say is that the right-to-repair bill that occurred here 15 years ago in Canada was voluntary, but it was the first of its kind in the world, and it was great to see that happen. It was great to see that everyone came together, but there wasn't an oversight mechanism. There wasn't anything. No one was in control. There wasn't someone you could come back to if it wasn't working to ask who was going to do something about it.

Today one side of the sector says it's not working, and then the automobile manufacturers say everything's working perfectly. It's not necessarily our place to sit here and tell you it is or isn't working, but clearly there is a gap and clearly there's a mechanism that should have been put in place but wasn't.

Thank you.

**Ms. Viviane Lapointe:** Thank you, Mr. Kerr.

Mr. Malik, I'd like to pick up on what my colleague Bernard Généreux was talking to you about, some of the amendments you may be proposing. We know that there are concerns that the right to repair may lead to some safety risks with medical devices. I believe that in your statement, you stated that it has the potential to undermine the safety of medical devices. In your estimation, are there specific categories of medical devices you would like to see excluded from this bill?

**Mr. Raj Malik:** Let me start, and then I'll ask my colleague to weigh in.

As you're probably aware, medical devices in Canada are classified according to category and level of invasiveness. There are a number of medical devices that do not require any sort of repair or maintenance, and that would include products such as needles, syringes and bandages. All of those would be excluded. Devices that have a hardware or software component to them would be the ones that we would be most concerned about in terms of a safety risk.

**Ms. Viviane Lapointe:** Please go ahead.

**Ms. Mia Spiegelman:** I'm fully aligned with my colleague's feedback. In addition to what he mentioned, any medical device that has software, hardware or a combination of both of them would be something we would seek exclusion for. It doesn't have to be a specific MRI machine or any high-tech device; it could be a blood pressure cuff that you have at home to monitor your blood pressure if you have high blood pressure, for example. For us, it's any medical device that is not single use, is sterile and has equipment, soft-

ware or a combination that would need to be serviced, maintained and repaired.

[*Translation*]

**The Chair:** Thank you very much, Ms. Lapointe.

I now give the floor to Mr. Lemire for six minutes.

**Mr. Sébastien Lemire:** Thank you, Mr. Chair.

My question is for Mr. Jack.

I would like to thank you for your efforts to speak in French. We appreciate it very much.

I'd like to talk about insurers. One of the main arguments against individuals repairing their own vehicles is that safety is not guaranteed. Is that a concern for your organization?

What do you see as the biggest challenges for insurers? How could this be addressed?

• (1235)

[*English*]

**Mr. Ian Jack:** I'll turn to Jason in a moment, but I'd start by saying that these repairs are legal today. There are very limited circumstances under which the warranty would be void.

The piece of legislation before us today is, in our view, to ensure that digital locks are not used as a new way to start blocking the access that is legal and, as we heard our friends here in the industry say, that has been available for 15 years.

I'm not sure.... No, I don't think we do share that concern.

Jason, is there anything to add on that?

**Mr. Jason Kerr:** I would add only that in fact our colleagues on the previous panel from the CVMA spoke about the fact that access to the data is necessary in order to repair a vehicle to the proper specifications, as should be done. That can be done by an aftermarket repairer today. It's about making sure they have the right information, the right data they need to diagnose and to fix a vehicle, but I don't think there's any safety risk.

[*Translation*]

**Mr. Sébastien Lemire:** Bill 197 has been tabled in the Quebec National Assembly. The bill seeks to outright ban planned obsolescence and force the inclusion of a durability and reparability rating on product labels, preventing the use of the federal Copyright Act to prevent repairs.

Do you think planned obsolescence is a problem in the automotive industry?

Would your industry welcome a similar federal bill?

**Mr. Ian Jack:** You ask very interesting questions.

[English]

We have not spent a lot of time thinking about this. My initial reaction would be that I do not think we're concerned about programmed obsolescence. I think it's in the automakers' interest, as well, to keep that software as up to date as they can. Indeed, these days they all see themselves as being in competition with Tesla and potentially other new manufacturers. If anything, the auto industry is trying to remake itself as a tech industry these days.

Jason, maybe I missed something.

**Mr. Jason Kerr:** I would only add that vehicles on the road today average in age at about 12 years. These vehicles have been around for a while. I don't think it's the same kind of planned obsolescence issue that you might have with toasters or other products. I think vehicles are designed to last. People drive cars until they're 20 years old, as long as they properly maintain them. I don't think that's particularly an issue, from our perspective, on the vehicle side of things. It could very well be a—

**Mr. Ian Jack:** I would say, of course, it's getting the access to the software to keep them up to date in this situation.

[Translation]

**Mr. Sébastien Lemire:** I asked the previous panel of witnesses about VIN burning, a manufacturer's practice where one part can only work for one car.

Do you think this is a widespread practice in the automotive industry? Should we do more to combat that practice?

[English]

**Mr. Jason Kerr:** The translation didn't come through. Pardon me.

**Mr. Ian Jack:** Oh, okay. Well, I can take a kick at that one, then.

No, we were scratching our heads at the back of the room, I have to say, when that came up. It's not something that's come across our radar, I must admit. We will inform ourselves further on it, but I think we would have heard more about that if it were a big issue.

[Translation]

**Mr. Sébastien Lemire:** How do you respond to auto or equipment manufacturers who say that Bill C-244 could create safety or compliance gaps?

[English]

**Mr. Ian Jack:** We think that's over-complicating this piece of legislation. Access is not only allowed but, according to the CVMA itself, encouraged these days, under CASIS. It's not an issue today. This would not alter in any way what's available today.

This is about repairability. As our colleagues from the aftermarket on the previous panel also said, this is not about an interest in any of the other data that's involved; it's about being able to repair vehicles in 10 years from now the same way they can be repaired today, and in the way they were able to be repaired 10, 20, and 50 years ago. We're trying to preserve, in a sense, the status quo as the technology advances, not change the rules of the game.

[Translation]

**Mr. Sébastien Lemire:** Technological evolution is leading us to electric vehicles and all the technology that goes with it. Do you think this will further complicate the relationship for electric vehicle owners? Will it create gaps and increase the power of car manufacturers, since we'll have to turn to a car dealership rather than a garage of our choice?

• (1240)

[English]

**Mr. Ian Jack:** I think vehicles are becoming more and more technologically dependent, regardless of what the drivetrain is. EVs are part of that trend, of course, but I think if EVs hadn't been invented and we weren't worried about the climate and we were just dealing with the vehicles from the past, the technological evolution would still come to a point where access....

Already today, you need access to software to repair any vehicles that are on the road. That trend will continue and will accelerate. More and more is diagnosed and then repaired via software, and less and less by wielding a hammer under the hood of the vehicle, like in the old days. That trend will continue, absolutely.

[Translation]

**Mr. Sébastien Lemire:** Thank you for your answers and for the image you evoke.

**Mr. Ian Jack:** Thank you.

**The Chair:** Thank you very much, Mr. Jack.

Thank you very much, Mr. Lemire.

Mr. Vis, you have the floor for five minutes.

[English]

**Mr. Brad Vis:** Thank you, Mr. Chair.

My questions will be directed toward Mr. Malik and Ms. Spiegelman.

Section 2 of the Copyright Act already and explicitly includes computer programs in the definition of a “literary work”. In your opinion, why does clause 1 of Bill C-244 therefore propose to specify that a computer program is a “work”? What are the implications of that?

**Ms. Mia Spiegelman:** Do you want me to try to explain our concerns around clause 2? Is that your question? I'm sorry. Could you paraphrase, perhaps?

**Mr. Brad Vis:** Basically, what I'm trying to get at is this: Would enacting clause 1, which would amend the Copyright Act in section 2, shed doubt on the protection of computer programs under the act?

**Ms. Mia Spiegelman:** I can only speak to the impact that these two clauses have on regulated medical devices. We have equal concern with regard to clause 1 and clause 2, specifically around the parts components in clause 2. As you know, some components of medical devices go into contact with humans—blood, for instance, and solutions that go into human patients—and that's something we'd be equally concerned about as going into software, as mentioned in clause 1.

I'm not sure if I answered your question. If not, please feel free to ask it again.

**Mr. Brad Vis:** I'll try another one.

Section 41.21 of the Copyright Act allows the Governor in Council to make regulations to change some aspects of the act's anti-circumvention framework, including by prescribing further exemptions to anti-circumvention rules. How is allowing a person to circumvent a technological protection measure to diagnose, maintain or repair a product through legislation superior to doing it through the current regulatory approach?

**Ms. Mia Spiegelman:** We mentioned the example of Vanessa's Law. The current law requires a regulated industry to provide certain reporting. For example, you have to report to the government in 10 days if there was a death or near death, or should it recur in 30 days. This is an example. Vanessa's Law added to this in that they have to do yearly reporting and so on.

Our concern is around this amendment reducing the protections that our patients and health care providers have today in the unregulated industry, which is not covered under these requirements. Neither are they required to submit a 10-day reportable, a 30-day reportable or any testing around these parts that were created or any summary reports. Our concern is around the reduction of the protections for the unregulated industry today.

**Mr. Brad Vis:** Then generally, the do-it-yourself approach to diagnosis, maintenance or repair of products that could be covered under this bill if it is passed is problematic to your industry.

**Ms. Mia Spiegelman:** It's problematic to our patients and our health care providers and to Health Canada to ensure ongoing safety monitoring of our patients.

**Mr. Brad Vis:** Thank you.

How much time do I have left, Mr. Chair?

• (1245)

**The Chair:** You have about a minute and a half.

**Mr. Brad Vis:** Okay.

Computer programs embedded in products are typically licensed to consumers. To retain the right to use the program, they usually must comply with the licence, which may require that they do not circumvent TPMs for any reason. Thus, a person could breach the licence, losing the right to use the program, even if, in this case, the Copyright Act otherwise allows the person to circumvent the technological protection measure.

Given that provinces have legislative powers over contract law, should the federal government engage with them on the matter of restrictive licences—in the context of Bill C-244, obviously?

**Mr. Raj Malik:** Is that for us, Mr. Vis?

**Mr. Brad Vis:** All my questions are directed to you.

**Mr. Raj Malik:** Yes.

As you know, health care in this country is a provincial responsibility. There is funding from both the provinces and the federal government. I would imagine that right-to-repair legislation would probably land in the purview of the provinces. What we're requesting is that for federally regulated medical devices, there be either an exception or an amendment to ensure that these devices are repaired by trained individuals who have access to the proper parts and the proper training.

Does that answer your question?

**Mr. Brad Vis:** It does, partly.

I'm kind of on the fence about this bill right now. I think it's so broad. I see the merits of it for some industries. Then for others, I think we're opening up a can of worms. Generally, my rule of thumb is that I don't want to try to fix something that's not broken. It applies so differently to all the different witnesses we're hearing today. What I'm trying to get at is the complexity of broad-based legislation like this that doesn't exist in other jurisdictions, necessarily, and the implications of that. That's why I was asking those specific questions that were so generously provided by our analysts.

**Mr. Raj Malik:** Maybe I could just expand on my answer, then.

Medical technologies and medical devices, as I said, are federally regulated. If we're looking for specific carve-outs, then I guess that would be our recommendation.

**The Chair:** Thank you very much, Mr. Malik and Mr. Vis.

We'll now turn to MP Dong for five minutes.

**Mr. Han Dong:** Thank you very much, Mr. Chair.

I want to thank all the witnesses for coming today.

I just want to say, Mr. Jack and Mr. Kerr, that your testimony was very much valued. I think it's good for us to hear different perspectives on this bill.

Having said that, earlier today we heard from witnesses who raised concerns regarding the impact of this bill on safety and environmental concerns. What's your view on how this bill would impact the safety of our roads and the environmental standards?

**Mr. Ian Jack:** That's a very good question. We care a lot about both of those issues. It's a very good question; thank you for it.

I would say a few things. First of all, we've also heard testimony that this is happening anyway, regardless of this legislation. Right now you have people going on the dark web and to various corners of the internet to download pirated pieces of software to do some of this themselves. We think that this legislation would surface that and bring it, hopefully, into the legal market. That's one thing we would say about it.

We think there are, as we've also heard, environmental laws. They should absolutely be enforced. However, these are amendments to the Copyright Act, not to environmental... and I don't think we want environment... As Mr. Vis commented, it's already broad enough. I don't think we need to be putting environmental concerns into this bill at the same time. That should be dealt with under environmental legislation.

We are not particularly concerned about road safety aspects of this bill because, again, we're talking about legitimate software that is already being used by legitimate players in the industry to repair vehicles, and just making sure through these amendments, this Bill C-244, that we don't put a new block in place—a new padlock, if you will, on access to that software.

• (1250)

**Mr. Han Dong:** Thank you for that.

Although it may be true that it's happening anyway—people are getting information or are figuring out a way to circumvent it—I think making a law, making it legal, is very different because laws, to our understanding, set a very minimum standard of our expectations of what is happening in industry and society. In making a law, basically you're sending a strong signal that it is allowed and that people would be able to do that.

**Mr. Ian Jack:** For legitimate legal purposes.

**Mr. Han Dong:** For legitimate legal purposes.

**Mr. Ian Jack:** That wouldn't change whether somebody's doing something illegal.

**Mr. Han Dong:** On the environmental impact, thank you very much for the response. One of my colleagues mentioned earlier that Australia is doing something and the United States is doing something, and I too want to thank the analysts for doing the research.

In the Australian case, in 2021 they tried to amend their Competition and Consumer Act to establish a scheme that mandated all service and repair information provided to car dealership networks and manufacturer-preferred repairers be made available for independent repairs and to registered training organizations to purchase.

Obviously that's a different path they're taking. This bill intends to fix the copyright aspect of things to pave the way for other laws—at least, that's what I see.

What's your comment on that? Can you compare the two approaches? Can you compare what the Australians are doing and what we're doing here in the committee?

**Mr. Ian Jack:** I think we'd agree with your interpretation, and as an earlier witness said as well, to the extent that there are issues with CASIS, this will not fix them. What it will do is ensure that another roadblock isn't put up in the future.

We see this bill as one step forward. As I said in the opening remarks, we hope that surfacing this issue and having this testimony from various players in our particular industry will perhaps cause the committee to take a renewed interest in the overall issue. I do think that the CASIS example is very pertinent, as I said, to any amendments you may be considering here, because if amendments are done so that people can do voluntary agreements but there's no oversight of those agreements once signed, you end up in the same situation and you'll have, I would predict, a parade of industries coming before this committee to complain from one side or the other that the agreement is not being respected, and there will be nobody to arbitrate that dispute.

**Mr. Han Dong:** I very much agree with your comment on the review and audit mechanism to be built. Whatever this bill will look like at the end of a series of amendments, would you still recommend a review and audit mechanism be built into this bill?

**Mr. Ian Jack:** Yes.

**Mr. Han Dong:** Okay.

**Mr. Ian Jack:** We absolutely would, and again I think CASIS is a perfect example. With great goodwill, something was entered into 15 years ago. When people start disputing it, though, if it's just floating out there as a semi-private agreement, there's no way to fix it, and the consumer is ultimately the one who gets hurt in that situation.

**Mr. Han Dong:** Do you have any thoughts on how long that cycle should be? Is it a two-year review period or a five-year review period?

**Mr. Ian Jack:** We'd split the difference and say three, actually. Two is very short, and we are not interested in setting up a big new bureaucracy. Five years can be very long, though, in an industry.

**Mr. Han Dong:** Would you say that the review audit process should be specified within the regulatory process or actually should be built into the legislation?

**Mr. Ian Jack:** We'll leave that to your legislative counsel. I don't have legal advice on where the best place for that is, as long as it's there. Legislation, of course, would be better in that respect, but then there would have to be regulation made to follow that.

I'll make one other broader point, if I may. My colleagues inside the department won't like this very much, but I started writing about right to repair as a journalist in 1999. I've been around this issue for a long time, and one of the things that happened many years ago is that Industry Canada was slammed together out of a bunch of different departments. It is responsible for attracting and keeping automotive investment in this country. It's also responsible for the Copyright Act, as you would know. It's also responsible for consumer affairs.

My experience over the years has been that one of those things is considered more important than the others to the department. I understand that. Again, Mr. Masse isn't here to pipe up for the auto workers of Windsor, but I'm sure he would if he were here. I get that, but it is a fact that when there are competing interests inside the department, it is not always the consumer interest that triumphs at the end of the day. That may be understandable, but I think if there's a legislative mandate, it makes it harder for the department to not do anything. Indeed, my understanding is that there is a mechanism for an exemption under the Copyright Act regulations, but an exemption hasn't been granted once in 10 years.

• (1255)

**The Chair:** Thank you very much, Mr. Jack and Mr. Dong.

We'll now turn to Mr. Lemire.

[*Translation*]

You have the floor for two and a half minutes.

**Mr. Sébastien Lemire:** Thank you, Mr. Chair.

My question is for the representatives from Medtech, Mr. Malik and Ms. Spiegelman.

Reports indicate that during the pandemic, hospitals complained of delays in repairing critical ventilation equipment because only the original manufacturer could make modifications.

Have you witnessed similar experiences? Do you think delays due to repairs affect the efficiency of our health care system?

[*English*]

**Mr. Raj Malik:** Thank you for the question.

During the pandemic, our medical device manufacturers, I think, went above and beyond in terms of ensuring that there was a production of ventilators, testing kits and other medical technologies

required to battle the pandemic. We did not hear of any customers who were complaining that their medical products, specifically ventilators, were not repaired on time.

Mia, do you have anything else to add?

**Ms. Mia Spiegelman:** Thank you, Raj. Along with what you mentioned, we have not heard of such concerns. In fact, some companies, as you mentioned, went above and beyond and posted the designs for their ventilators for others to use. If anything, we saw huge collaboration during COVID.

**Mr. Raj Malik:** Maybe I can add that when it comes to servicing products within a hospital, a number of provinces—in fact, most provinces—have in-house technical service organizations already present. Not only do they have the original equipment manufacturer for repair of those devices; they also have their in-house organizations that are trained by the OEMs.

**Ms. Mia Spiegelman:** If I can add one more piece to what you mentioned, Raj, we fully support regulated third party servicing of medical devices as integral to health care. However, our concern is the regulations.

[*Translation*]

**Mr. Sébastien Lemire:** Thank you very much.

**The Chair:** Thank you very much, Mr. Lemire.

That's all the time we have for this second hour of the meeting.

Thank you very much to the witnesses for making themselves available for the committee's work. We thank them very much.

I also thank the analysts, the interpreters, the clerk and all the support staff.

The meeting is adjourned.

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